STATUTORY RULES OF NORTHERN IRELAND

2013 No. 243

PENSIONS

The Automatic Enrolment (Miscellaneous Amendments) Regulations (Northern Ireland) 2013

Made - - - - 11th October 2013
Coming into operation in accordance with regulation 1(1)

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 107A(15)(b) and 177(2) and (3) of the Pension Schemes (Northern Ireland) Act 1993(**1**), Articles 49(8) and 166(1) and (2) of the Pensions (Northern Ireland) Order 1995(**2**), and now vested in it(**3**), and sections 3(2), 4(5), 5(2), 8(4) to (6), 10, 11, 15, 23(1)(c), (3) and (6), 33(2), 37(3) and 113(2) of the Pensions (No. 2) Act (Northern Ireland) 2008(**4**).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Automatic Enrolment (Miscellaneous Amendments) Regulations (Northern Ireland) 2013 and shall come into operation—

(a) for the purposes of this regulation and regulations 2, 3 and 4(1) to (3) and (5) to (11), on 1st November 2013, and

(b) for the purposes of regulations 4(4), 5 and 6, on 1st April 2014.

(2) The Interpretation Act (Northern Ireland) 1954(**5**) shall apply to these Regulations as it applies to an Act of the Assembly.

(**1**) 1993 c. 49; section 107A was inserted by Article 10 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)); *see also* subsection (18) of that section as added by section 49 of the Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13 (N.I.))
(**2**) S.I. 1995/3213 (N.I. 22); Article 49(8) was substituted by Article 11(1) of the Welfare Reform and Pensions (Northern Ireland) Order 1999
(**3**) *See* Article 8(b) of S.R. 1999 No. 481
(**4**) 2008 c. 13 (N.I.); section 4 was substituted by section 7(2) of the Pensions Act (Northern Ireland) 2012 (c. 3 (N.I.)); section 23 was substituted by section 12(2) of that Act
(**5**) 1954 c. 33 (N.I.)

Amendment of the Occupational Pension Schemes (Scheme Administration) Regulations

2. In regulation 16 of the Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997(**6**) (prescribed time in which an employer must make payments to trustees or managers) for paragraphs (2) and (3) substitute—

"(2) Where a person becomes an active member of a relevant scheme, in relation to contributions deducted in the relevant period, the prescribed period for the purposes of Article 49(8) is the period commencing on the day on which the first deduction in the relevant period is made and ending—

(a) where the contribution is paid to the trustees or managers of the scheme by means of electronic communication, on the 22nd day of the month following the last day of the relevant period; or

(b) in any other case, on the 19th day of the month following the last day of the relevant period.

(3) For the purposes of this regulation—

"the 2008 Act" means the Pensions (No. 2) Act (Northern Ireland) 2008;

"electronic communication" has the same meaning as in section 4(1) of the Electronic Communications Act (Northern Ireland) 2001(**7**);

"relevant period" means a period of 3 months commencing on the date from which active membership is effective;

"relevant scheme" means—

(a) a scheme which is a qualifying scheme in relation to the person under section 16 of the 2008 Act; or

(b) where the person is enrolled in the scheme pursuant to section 9 of the 2008 Act, a scheme which is registered under Chapter 2 of Part 4 of the Finance Act 2004(**8**).".

Amendment of the Personal Pension Schemes (Payments by Employers) Regulations

3. In regulation 5 of the Personal Pension Schemes (Payments by Employers) Regulations (Northern Ireland) 2000(**9**) (prescribed period for the purpose of calculating the due date for the payment of any contribution on behalf of an employee) for paragraphs (2) and (3) substitute—

"(2) Where an employee becomes an active member of a relevant scheme, in relation to contributions deducted in the relevant period, the prescribed period for the purposes of section 107A(15)(b) is the period commencing on the day on which the first deduction in the relevant period is made and ending—

(a) where the contribution is paid to the trustees or managers of the scheme by means of electronic communication, on the 22nd day of the month following the last day of the relevant period, or

(b) in any other case, on the 19th day of the month following the last day of the relevant period.

(3) For the purposes of this regulation—

(**6**) S.R. 1997 No. 94; regulation 16 was substituted by regulation 48 of S.R. 2010 No. 122 and paragraph (3) was amended by regulation 2(23)(b) of S.R. 2012 No. 232

(**7**) 2001 c. 9 (N.I.); the definition of "electronic communication" in section 4(1) was amended by paragraph 170 of Schedule 17 to the Communications Act 2003 (c. 21)

(**8**) 2004 c. 12

(**9**) S.R. 2000 No. 349; regulation 5 was substituted by regulation 49 of S.R. 2010 No. 122 and paragraphs (2) and (3) were amended by regulation 2(24)(b) and (c) of S.R. 2012 No. 232

"the 2008 Act" means the Pensions (No. 2) Act (Northern Ireland) 2008;

"electronic communication" has the same meaning as in section 4(1) of the Electronic Communications Act (Northern Ireland) 2001;

"relevant period" means a period of 3 months commencing on the date from which active membership is effective;

"relevant scheme" means—

(a) a scheme which is a qualifying scheme in relation to the person under section 16 of the 2008 Act, or

(b) where the person is enrolled in the scheme pursuant to section 9 of the 2008 Act, a scheme which meets the requirements of that section.".

Amendment of the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations

4.—(1) The Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations (Northern Ireland) 2010(**10**) are amended in accordance with paragraphs (2) to (11).

(2) For regulation 4(**11**) (pay reference periods for the purposes of sections 1(1)(c), 3(1)(c) and 5(1)(c)) substitute—

"**Pay reference periods for the purposes of sections 1(1)(c), 3(1)(c) and 5(1)(c)**

4.—(1) This regulation applies for the purposes of sections 1(1)(c), 3(1)(c)(**12**) and 5(1)(c) (jobholders, automatic enrolment and automatic re-enrolment).

(2) The pay reference period in respect of a person is determined in accordance with paragraph (3) or paragraphs (4) and (5), whichever the employer may decide.

(3) For the purposes of this paragraph, the pay reference period is—

(a) in the case of a person who is paid their regular wage or salary by reference to a period of a week, the period of one week;

(b) in the case of a person who is paid their regular wage or salary by reference to a period longer than a week, that period.

(4) For the purposes of this paragraph, subject to paragraph (6)(a), a pay reference period is—

(a) a period equal in length to the usual interval between payments of the person's regular wage or salary, or

(b) the period of a week,

whichever is the longer.

(5) For the purposes of paragraph (4), pay reference periods commence—

(a) where the person is paid monthly, on the first day of a tax month;

(b) where the person is paid weekly or the pay reference period is a week, on the first day of a tax week;

(c) where the person is paid at intervals of multiple weeks, on—

(i) 6th April, and

(**10**) S.R. 2010 No. 122; relevant amending Regulations are S.R. 2012 Nos. 232, 237 and 390

(**11**) Regulation 4 was amended by regulation 2(4) of S.R. 2012 No. 232

(**12**) Sections 3(1) and 5(1) were substituted by section 6(1) and (3) of the Pensions Act (Northern Ireland) 2012 and amended by Article 2(1) of S.R. 2013 No. 79

(ii) the first day of the tax week which commences immediately after the expiry of a pay interval period beginning on 6th April, unless paragraph (6) applies, and

(d) where the person is paid at intervals of multiple months, on—

(i) 6th April, and

(ii) the first day of the tax month which commences immediately after the expiry of a pay interval period beginning on 6th April, unless paragraph (6) applies.

(6) Where paragraphs (4) and (5) apply and a pay reference period includes the last day of a tax year—

(a) if the qualifying earnings which, but for this sub-paragraph, would fall in that pay reference period, are paid or payable on or after 6th April, the pay reference period ends on 5th April;

(b) the next pay reference period commences on 6th April.

(7) In this regulation—

"pay interval period" means a period which is equal in length to the usual interval between payments and each whole multiple of that period;

"tax month" means the period beginning with the sixth day of the month and ending on the fifth day of the following month;

"tax week" means one of the successive periods in a tax year beginning with the first day of that year and every seventh day after that (so that the last day of a tax year is, or, in the case of a tax year ending in a leap year, the last 2 days are, treated as a separate week).".

(3) For regulation 5(**13**) (pay reference periods for the purposes of sections 20(1)(b) and (c) and 26(4)(b) and (5)(b)) substitute—

"**Pay reference periods for the purposes of sections 20(1)(b) and (c) and 26(4)(b) and (5)(b)**

5.—(1) The pay reference periods for the purposes of section 20(1)(and (c) (quality requirement: UK money purchase schemes) and section 26(4)(b) and (5)(b) (quality requirement: UK personal pension schemes) are as follows.

(2) A pay reference period may be—

(a) subject to paragraph (10), a period of a year, ending on the day before an anniversary of the employer's staging date;

(b) a period which is equal in length to the period by reference to which the jobholder is paid their regular wage or salary, commencing on the first day of that period, or

(c) subject to paragraph (4)(a), a period which is equal in length to the usual interval between payments of the jobholder's regular wage or salary, commencing on the date determined in accordance with paragraph (3).

(3) Where paragraph (2)(c) applies, pay reference periods in respect of a person commence —

(a) where the person is paid monthly, on the first day of a tax month;

(b) where the person is paid weekly, on the first day of a tax week;

(c) where the person is paid at intervals of multiple weeks, on—

(i) 6th April, and

(**13**) Regulation 5 was substituted by regulation 2(5) of S.R. 2012 No. 232

(ii) the first day of the tax week which commences immediately after the expiry of a pay interval period beginning on 6th April, unless paragraph (4) applies, and

(d) where the person is paid at intervals of multiple months, on—

(i) 6th April, and

(ii) the first day of the tax month which commences immediately after the expiry of a pay interval period beginning on 6th April, unless paragraph (4) applies.

(4) Where paragraph (2)(c) applies and a pay reference period includes the last day of a tax year—

(a) if the qualifying earnings which, but for this sub-paragraph, would fall in that pay reference period, are paid or payable on or after 6th April, the pay reference period ends on 5th April;

(b) the next pay reference period commences on 6th April.

(5) Where paragraph (2)(a) applies, the first pay reference period in respect of a person commences—

(a) on the relevant day, or

(b) where there has been a period beginning after the relevant day, during which the requirements of section 1(1)(a) or (c) (jobholders) were not met but the person remained an active member of a qualifying scheme, on the day following the last day of that period.

(6) Where paragraph (2)(b) applies, the first pay reference period in respect of a person commences on the first day determined in accordance with that paragraph which falls on or after the relevant day.

(7) Where paragraph (2)(c) applies, the first pay reference period in respect of a person commences on the first day determined in accordance with paragraph (3) which falls on or after the relevant day.

(8) Subject to paragraph (2)(c), a pay reference period in relation to any person ends on the day before the day on which the next pay reference period begins.

(9) Where a person ceases to be a jobholder of the employer or ceases to be an active member of a qualifying scheme, the last pay reference period—

(a) ends on the day on which the person's status so changes, where paragraph (2)(a) applies, or

(b) is the pay reference period which includes the day on which the person's status so changes, where paragraph (2)(b) or (c) applies.

(10) A pay reference period under paragraph (2)(a) may be less than a year if it either commences or ends within the period of a year ending on the day before an anniversary of the employer's staging date.

(11) In this regulation—

"relevant day" means the first day on or after the staging date on which the person is both a jobholder and an active member of a qualifying scheme;

"pay interval period", "tax month" and "tax week" have the same meaning as in regulation 4.".

(4) In regulations 6(1), 7(1) and (3), 13(2)(a), 17(1)(**14**), 18(4)(a), 21(1)(**15**), 24(3)(**16**), 27(b)(**17**), 28(a) (in substituted regulation 6(3)) and 29(a)(**18**) (in substituted paragraph (1)) for "one month", in each place where it occurs, substitute "6 weeks".

(**14**) Regulation 17(1) was amended by regulation 2(9)(a) of S.R. 2012 No. 232